IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 15171 of 2007(F)

PETITIONER:
----

1. MARY LONAPPAN, AGED 62 YEARS,
W/O.LATE LONAPPAN, CHAKKANATTU HOUSE, MARADU.

2. M.RAJAPPAN, AGED 57 YEARS,
S/O.MADHAVAN NAIR, DEEPA MANDIRAM,
NEAR AYNI TEMPLE, MARADU.

BY ADV. SMT.M.A.VAHEEDA BABU

RESPONDENTS:
----

1. MARADU GRAMA PANCHAYAT, MARADU,
ERNAKULAM, REPRESENTED BY ITS SECRETARY.

2. SECRETARY(SPECIAL GRADE),
MARADU GRAMA PANCHAYATH.

3. TAHSILDAR, KANAYANNOOR TALUK.

BY ADV.SRI.SHANAVAS KHAN FOR R1 AND R2
GOVT. PLEADER SRI.P.N.SANTHOSH FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1&P2	**TRUE COPIES OF THE TAX RECEIPTS DATED 27-10-1961 AND 25/10/1967 SHOWING THE REMITTANCE OF TAX WITH RESPECT TO THE PROPERTY AND BUILDING OWNED AND POSSESSED BY THE FIRST PETITIONER.**
EXT.P3	**TRUE COPY OF THE NOTICE DATED 19-2-06 ISSUED BY R2**
EXT.P4	**TRUE COPY OF THE JUDGMENT DTD. 5-3-06 IN W.P.C.NO.6398/07 AND CONNECTED CASE.**
EXT.P5	**TRUE COPIES OF THE NOTICE DTD. 7-5-07 ISSUED TO THE FIRST AND SECOND PETITIONERS BY THE SECOND RESPONDENT.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.15171 OF 2007

Dated this the 23rd day of May, 2007

JUDGMENT

Case of the petitioners is as follows:

Petitioners are owners of the properties covered by their respective title deeds and the properties are in the possession of the petitioners and their predecessors for last more than 40 years. It is their case that they have not encroached into any portion of the Aynithodu of the northern side of their property. Earlier when there was an attempt, they approached this court and the matter is covered by Ext.P4 judgment of the Division Bench, wherein the Division Bench directed as follows:

> "Question to be decided is whether petitioners have encroached thodu or canal puramboke land or not. If they had encroached the puramboke land, they are liable to be evicted. In all writ petitions, apart from the ground of violation of principles of natural justice, it is also pleaded that before evicting them, property shall be measured after considering the title deeds

> produced by them.
>
> In the above circumstances, we direct the respondents to measure out the property with notice to the petitioners before action is taken to evict them. Documents of title can be produced by the petitioners before the authorities at that time. Water logging can be avoided if such persons are evicted from the puramboke land according to law. But orders passed and notices issued without measurement and in violation of principles of natural justice, are set aside."

2. Exts.P5 and P6 are notices issued indicating that survey will be done on 17/05/2007. Petitioners approached this court praying for a direction to the respondents not to evict the petitioners from any of the portions of the property under their possession without following the procedure established by law and giving a reasonable opportunity to submit their objections to the measurements proposed to be taken on 17/05/2007 as provided under law.

3. I heard learned counsel for the petitioners and the learned counsel appearing for respondents 1 and 2.

4. Learned counsel for the petitioners submits that the

apprehension of the petitioners is that immediately after measurement is over, they will be dispossessed. if it is found that there are unauthorised occupation, without calling for objections and hearing them.

5. Learned counsel for the Panchayat submits that based on the measurements carried on pursuant to Exts.P5 and P6, Panchayat will, if it is found that there is unauthorised occupation of Panchayat land, proceed against the petitioners in accordance with law.

In such circumstances, I find that there is no basis for any apprehension. Recording the submission of the learned counsel for the Panchayat, the writ petition is disposed of.

K.M.JOSEPH
JUDGE

sv.